

Serial No. 10/715,102

REMARKS

Claims 4-14 were pending in the application.

By way of this amendment, the Applicant amends claims 4, and 11-13, cancels claims 5-10 and 14, and presents new claims 15-29.

Claim Rejections Under 35 U.S.C. § 102

The Examiner rejected claims 4-8 and 14 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,749,093 issued to Trick. In particular, the Examiner stated that Figs. 11-18D of Trick disclosed all of the claimed features of the Applicant's invention.

By way of this amendment, the Applicant has amended the claims and presented new claims believed to be absent from the prior art and submits the following arguments for consideration by the Examiner.

First, the Applicant has amended claim 4 to include the elements that the indicator dial be transparent, that the indicia be located on the indicator dial and of a first color, that the indicator element be located on the closure body and of a second color. Because Trick discloses an opaque dial that includes a window, rather than indicia, and because Trick also discloses that the indicia are located on the closure body, it cannot anticipate the Applicant's invention.

Second, new independent claim 18, claims the central cavity on the closure body and an annulus on the dial that cooperate to allow the dial to rotate on the closure body. Trick discloses that the indicator dial be secured to the closure body by a pin 228. See Trick, Fig. 13 and text at column 8, line 5-10. Applicant's use of a central cavity and depending annulus structure is a novel improvement over Trick as it allows the dispensing closure to be constructed with only two components, thus saving significant manufacturing costs. Because Trick does not teach or suggest the use of a depending annulus and a corresponding central cavity, it cannot anticipate Applicant's invention.

Therefore, the Applicant respectfully solicits reconsideration of the pending claims.

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Claim Rejections Under 35 U.S.C. § 103

The Examiner rejected claims 9-12 under 35 U.S.C. 103(a) as being obvious over Trick in view of U.S. Patent No. 4,756,423 issued to Holtsch, and further rejected claim 13 over Trick and Holtsch in further view of U.S. Patent No. 4,041,628 issued to Sasson. The Applicant respectfully disagrees and submits the following arguments for consideration by the Examiner.

The apparatus disclosed in Holtsch is an entire pill dispensing device per se and, therefore, it inherently lacks the capability of being attached to a pill vial. The object of the present invention is to provide a pill vial closure that can be attached to vials that are already used by pharmacists, thereby saving significant manufacturing costs and allowing pharmacists to choose the appropriate closure for particular patients or to otherwise use them as they see fit. Therefore, it would not have been obvious to one skilled in the art to combine the dispensing apparatus disclosed in Holtsch with that of the dispensing closure disclosed in Trick.

In addition even if one were to combine Trick and Holtsch, all the elements of Applicant's invention would not be shown. Specifically, the indicia 61, 62 of Holtsch are radially spaced windows, whereas the indicia in Applicant's invention are printed on the dial or the closure body. Although the indicator element as shown and claimed in the Applicant's invention can be a window, the indicia are not windows. *Compare* Holtsch Fig. 12 and text at column 5, lines 40-50 *with* the Applicant's application on pages 4 and 5. Therefore, the Applicant respectfully requests reconsideration of the pending claims.

Sasson discloses a desk calendar and a sign for indicating return signs for salespeople and store opening and closing times. There is no teaching or suggestion in Sasson to combine its teachings with that of Trick or Holtsch, or rather to combine a desk calendar with a dispensing closure for a pill vial. Moreover, the art of making a dispensing closure as shown in Trick is non-analogous to manufacturing a desk calendar or a sign as shown in Sasson because they involve trying to solve completely different problems – i.e. reminding a consumer to consume medication is different than notifying the public of the date or the expected arrival/departure time of a salesperson. Therefore, it would not have been obvious to one skilled in the art to combine the teaching of Sasson with that of Trick to arrive at the

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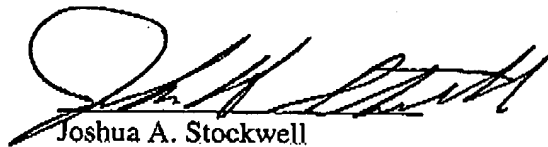
Applicant's invention. Therefore, the Applicant respectfully requests reconsideration of the pending claims.

Conclusion

In view of the foregoing arguments and amendments to the claims, the Applicant respectfully solicits favorable action on the merits. The Examiner is invited to call the undersigned at the number listed below regarding this amendment and the arguments made herein, however please continue to send all official correspondence to the correspondence address currently on file.

The USPTO is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our account #02-0900.

Respectfully submitted,



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